

Written Evidence – Dr Rosena Allin-Khan

1. Letter from the complainant to the Commissioner, 23 December 2019

I write to you today to formally submit a complaint with the Standards Commission with the House of Commons regarding the conduct of Dr Rosena Allin-Khan MP.

I am following up from an email I received from [name redacted], investigations and complaints officer, to formally submit my evidence for any investigation that you may undertake in the future regarding my allegations.

I would like to submit evidence that Dr Rosena Allin-Khan used House of Commons provided stationary & postage to campaign for re-election just prior to the dissolution of parliament.

On the 9th September 2019 I sent a private letter to Dr Rosena Allin-Khan's parliamentary email address regarding questions I had for her about the parliamentary debate. I never received a response to this email, or any indication that it had been read.

On the 4th November 2019 I received House of Commons headed letter dated the 2nd of November, sent with parliamentary postage. This letter was a clear form of electioneering as she mentions she would like to be re-elected to "campaign for remain". Parliament was dissolved just days later on the 6th of November 2019.

I believe this is a clear violation of House of Commons rules and would fall well within the boundaries of the description of campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2010.

I would also like to note that this letter has her private email server address in the footer of the House of Commons letter I received, not her parliamentary email address.

I would also like to put forward a separate allegation that Dr Rosena Allin-Khan has taken my private email address, and residential address from parliamentary email servers, and moved them to her own private @droseana.co.uk server.

Shortly after sending my original email enquiry to her @parliament.uk email address, it was clear that Allin-Khan's office had taken my residential address and email and signed me up for newsletters both in the form of post and email. I never gave permission for my address and email to be lifted from the parliamentary email system and to then be used to sign up for newsletters.

I have also had staff members from her office attend my house to hand out newsletters and electioneering material, with it being clear that this was due to being on a private database in her office, and not random electioneering. This has also included being signed up for numerous political newsletters / groups.

While I know you cannot investigate GDPR and privacy breaches, I do believe this is relevant as it shows that there has been a misuse of not only the postal system at the House of Commons, but a misuse of private details that are sent to the House of Commons email system.

I have attached numerous copies of evidence for your consideration, and if you need any more information I would more than happy provide it.

Enclosure 1: Letter from Dr Rosena Allin-Khan MP to the complainant, dated 2 November 2019, and a House of Commons provided envelope

Brexit Update

As someone who has contacted me about Brexit in the past, I wanted to ensure that you are up-to-date on how I have been fighting Brexit in Parliament.

Over the last two years, I have consulted Tooting residents, met with local groups and answered thousands of emails from local people about Brexit.

Since I was first elected in 2016, just a week before the referendum, I have done my best to represent the interests of Tooting. I voted against triggering Article 50, voted against every proposed Brexit deal because they would have been damaging for our country, and I have been a vocal supporter of a People's Vote.

Now that a General Election has been called, Parliament will no longer be sitting and I will cease being the Member of Parliament, unless I am fortunate enough to be re-elected on 12th December. I would however, like to reassure you that I am committed to remaining and, if I am re-elected, I will campaign to Remain in all circumstances and keep using my vote in Parliament to represent the best interests of our community at every stage.

Thank you once again for taking the time to contact me with your enquiries.

Enclosure 2: Email from the complainant to Dr Rosena Allin-Khan MP to the complainant, dated 9 October 2019.

Can you please explain how my private email address has been misused by you and/or your office staff?

I sent you the below on the 9th of September – clearly speaking out against remaining in the EU and clearly stating my distaste in how the Labour party was not allowing the public to have a say in the form of a general election. You never replied, and instead went on to misuse my personal data.

My email address and personal data has been misused by your office, by signing me up for your personal newsletter (attached).

How dare you take my private email address from an official parliamentary email system, and add it to your personal email address newsletter list. This is a gross use of personal information, and possibly a breach of GDPR and data privacy laws. I am within my rights to complain to the ICO for your offices disregard for my personal data – transferring it from official government email servers to your personal newsletter server.

Can I please have a reason not only why you have not replied to the below, but went on to use my private email to send me newsletters, the like I have never signed up for – promoting exactly the opposite of what my email asked and talked about.

I look forward to hearing from you, sooner rather than later.

Enclosure 3: Email from Dr Rosena Allin-Khan MP to the complainant, dated 9 October 2019.

Brexit: have you had your voice heard?

My local anti-Brexit petition has reached 6,500 signatures.

When we get to 10,000, I am going to hand it to Boris Johnson at Downing Street.

If you've signed it already then please help me spread the word by forwarding this email to friends and family. Anybody can sign it, of any nationality, of any age. Brexit will affect us all so I believe it is important that everyone has a voice. They can add their names by clicking here.

Many thanks and I hope to see you soon.

Enclosure 4: Letter from Dr Rosena Allin-Khan MP to the complainant on Labour Party headed stationery, dated October 2019.

An update from your local MP

Since being first elected in June 2016, I have been proud to serve as your Member of Parliament and I wanted to update you on some of my work. Tooting Broadway is a vibrant and diverse place to live – I am so proud to represent this fantastic area and I want everyone locally to share in this pride, which is why I have been campaigning tirelessly to Clean Up Tooting. The Council must do more to keep our streets clean.

Brexit is at the forefront of our minds and my view is clear. I am passionately pro-Remain, and I know the best deal is the one we currently have, but simply cancelling Brexit would lead to an ever more divided country at a time when we need to heal. Boris Johnson wanted to force through his No Deal Brexit and I was one of the MPs to take legal action against his prorogation of Parliament. The best way to resolve the Brexit crisis is to put the decision back to the people - which is why I support a public vote and I will not hesitate to campaign for Remain.

Tooting's renters have been hardest hit by the prolonged housing crisis made worse by this Government. I am proud to be working with London Mayor, Sadiq Khan, towards a re-balanced rental market with rent controls, indefinite tenancies and ensuring the building of genuinely affordable homes.

In May, I proudly declared a climate emergency in Parliament. I have worked with flood victims in refugee camps around the world and the despair is palpable and tragic. It is heart breaking that it is these vulnerable people who will further suffer most from the drastic effects of climate change. We have no time to waste. I am determined to be a part of the solution to protect our planet, this begins at home by cleaning up our air, improving recycling and promoting cleaner modes of transportation.

As an A&E doctor in St George's Hospital, I have witnessed the challenges facing our NHS. It takes too long to get a GP appointment, so more people come to A&E, but there is little space on wards because the social care system cannot enable people to return home. We need a government to protect the health and security of us all – which is why I have been campaigning for more funding.

I firmly believe that humanity must have no borders. I have been proud to take these skills to refugee camps, including helping Rohingya fleeing from murder and persecution. This is why I will continue to fight for the most vulnerable in Tooting, in the UK, and around the world.

Enclosure 5: Email from Dr Rosena Allin-Khan MP to the complainant, dated 30 September 2019.

No Deal Brexit

At the start of this month, I launched a local petition against Brexit – I plan to deliver it to Downing Street in coming weeks.

Over 5,000 people have signed so far, and I noticed that your name wasn't yet on the list.

If you are against a No Deal Brexit, if you reject Boris Johnson's plans, if you want to Remain - then join me in adding your name.

Help us reach 10,000 signatures, forward this email to a friend or family member and ask them to sign.

Many thanks for your support.

Enclosure 6: Email from Dr Rosena Allin-Khan MP to the complainant, dated 17 September 2019.

Sign my local petition against Brexit

At the start of September, I launched a local petition—Tooting: 10,000 against Brexit. So far 4,000 people have added their name—the response has been fantastic.

If you haven't yet signed it - [click here](#) to add your name.

Boris Johnson shut down Parliament in order to thwart any attempt to fight against his dangerous Brexit plans - however, we managed to force his hand when emergency legislation was passed blocking his damaging No Deal Brexit. I was also one of the MPs to add my name to court proceedings calling his prorogation unlawful, and I spoke out against his suspension of democracy in Parliament.

We must leave him in no doubt that our local area is pro-Remain, we are proudly-European and demand a public vote. Once we hit 10,000 signatures I will personally deliver it to Downing Street, so please make sure you add your name.

P.S. If you want to help spread the word, reply to this email. Some local people donated and I've printed some cards which we need help delivering to local streets.

Enclosure 7: Email from the complainant to Dr Rosena Allin-Khan MP, dated 9 September 2019.

My name is [named redacted] and I am one of your constituents in Tooting.

Today I'm writing to you to ask you to please let us the people vote in a general election. It is our democratic right, and it is your civil duty to allow the public to have their say on the future of this country.

I have spent the last 5 years of my life working in some of the most oppressive regimes in the world, countries that never get to vote for who leads them or what they would like to shape their future and country.

Seeing how the Labour party has blocked the public's right to have a general election has deeply upset me. I've have been in Russia, Syria, Turkey or another oppressive countries where fair and free elections are non existent; and when talking quietly with members of the public they often talk about their admiration for this country and our free, fair and open democracy.

I am an immigrant to this country, and have greatly loved integrating into this society I now call home. I have greatly enjoyed watching the UK parliamentary and democratic system work, but to watch Jeremy Corbyn ask for a general election for years and then when given the opportunity to have one to only back down is simply cowardice.

Even my partner, who is an impartial civil servant has said that dozens of her colleagues are all screaming for a general election across Whitehall, to let the system start working again, a mandate to be given and just to allow them to do their jobs.

I'm sick of the extensions. We are all sick of extensions.

I'm sick of precious parliamentary time that could be spent on so many other important bills and public matters. Let us have the final say, with a general election please.

23 December 2019

2. Letter from the complainant to the Commissioner, 10 February 2020

I just wanted to update you regarding the ICO decision for a possible breach of GDPR. I have attached the full letter that has been emailed, and they have decided that Dr Allin-Khan "has not complied with their Data Protection obligations."

The ICO have also decided the following "Although we do not intend to take any regulatory action on this case, this will remain on our systems to help us build a picture of Dr Allin-Khan's information rights handling practices."

I would still like to proceed with my original complaint direct to the house of commons regarding both the use of parliamentary email databases, the transferring of data from House of Commons email systems to private email servers, and the use of house of commons stationary to electioneering on the eve of the 2019 dissolving of parliament.

If you need any more details, please let me know.

Enclosure: Letter from the Information Commissioner's Office to the complainant, dated 10 February 2020.

Thank you for your correspondence in which you have complained that Dr Allin-Khan MP has used your personal data inappropriately and that she has sent you unwanted direct marketing.

The ICO's role

Part of our role is to consider complaints from individuals who believe there has been an infringement of their data protection rights. The law says we must investigate data protection complaints to an appropriate extent. We will put most of our effort into dealing with matters we think give us the best opportunity to make a significant difference to an organisation's information rights practices.

Depending on the circumstances, we will decide whether or not to take action against the organisation and what form our action will take. We do this by taking an overview of all concerns that are raised about that organisation with a view to improving their compliance with the data protection framework. Our decision will not affect your ability to enforce your rights through the courts.

Our view

We have considered the information available in relation to this complaint and we are of the view that Dr Allin-Khan MP has not complied with their Data Protection obligations. This is because, even though the direct marketing appears to have stopped, you did not receive any response from Dr Allin-Khan's office in relation to your complaint about either the direct marketing or sharing of your data.

The Privacy and Electronic Communications Regulations (PECR) says that direct marketing can only be sent in certain circumstances. Direct consent is one and a 'soft opt in' is another. You contacted Dr Allin-Khan about Brexit and the emails you received were on the same subject therefore it is possible that they would fall under a 'soft opt in' scenario. However, even if this was the case, Dr Allin-Khan should have responded to your complaint explaining why she thought contacting you in this way was reasonable and she did not.

Further action required

We will be writing to Dr Allin-Khan MP to request that they take the following steps to rectify this situation:

- Confirm that your details have been removed from any direct marketing lists;
- That she respond to your complaint explaining how her Office processed your personal data; and
- That she confirm to the ICO what steps are taken to ensure that personal data being held by her Office is being processed in line with PECR and/or GDPR.

Although we do not intend to take any regulatory action on this case, this will remain on our systems to help us build a picture of Dr Allin-Khan's information rights handling practices.

We will continue to monitor her data protection practices, and should any regulatory action be taken against the organisation in the future, your case may form a part of our intelligence against them. You can view any regulatory action we do take on our website, using the following link [link redacted].

10 February 2020

3. Letter from the Commissioner to Dr Rosena Allin-Khan MP, 24 February 2020

I am sorry to have to inform you that I again need to ask for your assistance in relation to an allegation I have received from [the complainant] about your compliance with the rules regarding the proper use of House-provided stationery and your use of his personal data. I enclose a copy of [the complainant's] correspondence, and his enclosures, including a determination letter from the Information Commissioner's Office, for your perusal.

My inquiry

My inquiry will initially focus on the allegation that your actions have put you in breach of paragraph 15 and/or 16 of the Code of Conduct for Members (copy enclosed). Specifically, I will initially investigate the issues below, but the scope of my inquiry may reduce or expand as the inquiry progresses.

1. Whether you have used House-provided stationery in a way that is contrary to the Rules for the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis by sending correspondence to constituents on House provided stationery that was not in the performance of your parliamentary function and was instead intended to confer an undue personal benefit, and/or an undue advantage on a political organisation, by supporting your return to public office.
2. Whether your processing of [the complainant's] personal data was a breach of your data protection obligations.

The Code of Conduct

Paragraph 15 of the Code of Conduct states:

“Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties...”

Paragraph 16 of the Code of Conduct states:

“Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.

Further to the Code the Rules for the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis (copy enclosed) state the following:

“Principles

2. The rules cannot be expected to cover every eventuality; Members should therefore always behave with probity and integrity when using House-

provided stationery and postage. Members should regard themselves as personally responsible and accountable for the use of House-provided stationery and postage. They must not exploit the system for personal financial advantage, nor (by breaching the rules in paragraph 3 below) to confer an undue advantage on a political organisation.

Rules

3. House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary function. In particular, this excludes using stationery or postage:

i. In connection with work for or at the behest of a political party (including fund-raising for a political party, advocating membership of a political party or supporting the return of any person to public office)"

Next steps

I would welcome your comments on the allegations outlined above and, in particular, I would appreciate your comments on the following questions please:

1. Were you aware of the rules regarding the use of House provided stationery and the limitations of its use for work in connection with a political party including supporting the return of any person to public office.
2. Did you take advice from the House authorities before using House-provided stationery for the purpose of sending out this communication. If you did, please describe the advice given and copies of any correspondence you exchanged with House officials on the matter.
3. Whether you consider this letter could reasonably be construed as being in connection with work for a political party including supporting the return of any person to public office. If you do not, please let me know the reason(s) for that belief.
4. Whether you consider that the content, and potentially the timing of this letter, could reasonably be considered as conferring an undue benefit to yourself or a political organisation. If you do not, please let me know the reason(s) for that belief.
5. Please let me know whether your letter to [the complainant] of 2 November 2019 was part of a wider mailing. If so, please can you confirm how many letters were sent and whether all of the letters were distributed using House-provided second-class postage-paid envelopes.
6. Whether you accept the decision of the Information Commissioner's Office. If not, I would be grateful if you could please provide your reasoning.
7. If you do accept the decision of the Information Commissioner's Office, do you also accept that this amounts to a breach of paragraph 15 of the Code. If not, I would be grateful if you could please provide your reasoning.

It would be helpful to receive any supporting evidence you have at the same time as receiving your response to these questions. Any other points you may wish to make to help me with this inquiry would also be most welcome.

Outcome

There are three possible outcomes to my inquiry:

1. I decide that the allegations concerning your conduct are not upheld and no further action is needed.
2. I decide to uphold some or all of the allegations concerning your conduct, and I decide that your acts amount to a breach of the Code, but the matter can be rectified using the powers available to me under Standing Order 150.
3. I decide to uphold some or all of the allegations concerning your conduct, and I decide that your acts amount to a breach of the Code, and the matter is serious enough to warrant being put before the Committee on Standards.

Important information

As you will be aware, my inquiries are conducted in private. Following the decision taken by the House on 19 July 2018, I will not publish the fact that I am conducting an inquiry into an allegation of an alleged breach of the Code of Conduct. My office will not comment on any aspect of the inquiry to third parties. They will answer direct factual questions about the processes I follow and the standards system more generally but will neither confirm nor deny that I have begun an inquiry.

Procedure

I enclose a copy of the Commissioner's Information Note, which sets out the procedure for inquiries. Please note that this has not yet been updated to reflect the changes flowing from the decision of 19 July 2018. I am also writing to [the complainant] to let him know that I have decided to begin an inquiry into this matter.

This letter and any subsequent correspondence between us in connection with this inquiry is protected by parliamentary privilege. Until such time as a final report is published, I must ask that you respect that confidentiality and do not disclose the contents of our correspondence to any third party. I have made a similar request of [the complainant]. My decision and all the relevant evidence, including our correspondence, will be published at the end of the inquiry.

I should say now, as a matter of courtesy, that I may seek the advice of the House authorities and others as part of this inquiry. If I do so, I will share that correspondence with you.

While I do not, at this stage, know whether it will be necessary to interview you about this matter, it would be open to you to be accompanied at any such interview. I am, of course, very happy to meet with you at any stage if you would find that helpful.

Action

I would be grateful to have your response to this letter as soon as possible and no later than Monday 9 March please.

Thank you for your assistance with this matter.

24 February 2020

4. Letter from Dr Rosena Allin-Khan MP to the Commissioner, 6 March 2020

I hope you are well. Thank you for taking the time to respond to [the complainant's] concerns regarding a letter I sent him in November 2019.

I had hoped to meet with you to discuss this before I replied in writing, but I was advised this was not possible. I remain happy to come in at any time to discuss this case further should you deem it necessary.

For clarity, I will address each of the questions you have put to me in turn, indicating when I am responding to more than one question. As I refer to them extensively in this letter, for ease I have enclosed a copy of the letter [the complainant] has submitted a complaint about, labelled as Appendix 1, and a copy of [the complainant's] complaint letter sent to you on 19 December 2019, labelled as Appendix 2.

Responding to question 1 and 2: I am aware of the rules regarding the use of House provided stationery and the limitations of its use, and I did not take advice from House authorities before using House-provided stationery in this case, because I did not believe the letter [the complainant] has complained about was in breach of any House of Commons rules.

Responding to question 3 and 4: I do not consider this letter could be reasonably construed as being in connection with work for a political party or the return of any person to public office, nor do I consider the content or timing of the letter to have conferred an undue benefit to myself or a political organisation.

In the first instance, the language used in the letter makes clear that I am not writing with the intention of seeking a vote. The letter itself is titled "Brexit Update". This makes clear that this is a general policy update on an issue that [the complainant] has written to me about in the past. In his complaint letter, [the complainant] states that the letter "was a clear form of electioneering as she mentions she would like to be re-elected to "campaign for remain"". I would like to make clear that the content of the letter is entirely factual and at no point in the letter do I ask for a vote for either myself or the Labour Party, nor do I ask to be re-elected, nor do I say that I would "like" to be reelected.

In addition, if this were a letter for electioneering purposes I would not have sent it on House of Commons stationery. Nonetheless, were the letter sent on personal stationery, it stands to reason that [the complainant] would not have been selected as a recipient of a policy update with the intention of soliciting support for re-election. As [the complainant] himself highlights in his email to me of 9th October 2019, enclosed and labelled Appendix 3, he is firmly against remaining in the EU and does not support the Labour Party. In fact, he has stated that he was "deeply upset" at the conduct of the Labour Party and describes

the “cowardice” of the Leader of the Labour Party, Jeremy Corbyn MP. If the letter I sent to him was a letter seeking his vote, it would firstly not have been sent on House of Commons stationery, and even then, I plainly would not have included my voting record of opposing Brexit. Indeed, if I had sent out a letter like this for electioneering purposes, it would not have been sent to him, as someone who had made clear that they did not support me. The very fact [the complainant] received this letter is a clear indication, therefore, that I did not send it with the intention of seeking votes.

Indeed, this letter was a general policy update to local residents who had contacted me about Brexit, regardless of whether they were supportive or opposed to Brexit. I believe I was well within my rights to do so, as I have sent similar general updates to constituents in the past. For example, I have included a copy of a similar update, labelled Appendix 4, sent to local residents who had contacted me about the local environment with an update on fly-tipping and litter.

Given that a General Election had been called by the time I sent the letter out, I thought it would be best practice to include information on what the General Election period would mean in terms of my ability to make representations on behalf of local residents on Brexit, which was a pressing ongoing issue at this time. I sent a similar letter to residents with ongoing casework enquiries with me, explaining that the General Election had been called and providing information of who they could contact during the General Election period should they need to.

Responding to question 5: As mentioned above, the letter [the complainant] received was part of a general update on an ongoing policy issue which he and other local residents had previously contacted me. Of approximately 109,500 constituents, the letter therefore went to 1,624 constituents who had contacted me about Brexit. To re-iterate, this was every constituent who had contacted me about Brexit, regardless of their view on it, and acting in my role as the Member of Parliament by keeping local residents updated on an issue which was both something they had raised with me in the past, and a fast moving issue with regular developments. As I was acting in my role as the local MP, I used House of Commons stationery to send these letters.

Responding to question 6 and 7: I do accept the decision of the Information Commissioner’s Office (ICO). However, it is important to make clear what the ICO’s decision was. I have enclosed copies of correspondence between the ICO’s Lead Case Officer [name redacted] and my Head of Office [name redacted], labelled Appendix 5. As you will see, the ICO found that I failed to respond to [the complainant] within 30 days of his complaint, and by doing so I had infringed on GDPR, which I accept. However, as detailed in Appendix 5, in a telephone conversation with [ICO Lead Case Officer], [Dr Allin-Khan’s Head of Office] was informed that if a constituent had contacted an MP about an issue, the MP is within their right to keep them updated with regards to that issue. [ICO Lead Case Officer] explained that the constituent, by emailing me about Brexit, has ‘soft opted-in’ and that the ICO would not have had an issue with that, had I responded in time to his original complaint. For your information, I am awaiting written confirmation from the ICO regarding this point and will pass it on to you when I receive it.

As a result, I do not accept that the ICO’s findings amount to a breach of paragraph 15 of the Code of Conduct for Members. My casework management system is setup to send emails out from rosena@drrosena.co.uk - it is the only email address I advertise. Any constituent

who emails me will get a response from this email address - the ICO are fine with this and asked me to explain this in my privacy policy- which I now do. I did not mishandle [the complainant's] data by contacting him regarding Brexit, and by providing him with a general policy update on an ongoing issue which he had raised with me in the past, I was acting to carry out my parliamentary duties, the very stipulation of paragraph 15.

I am disappointed that [the complainant] has felt it necessary to write to you to complain about the letter I sent him. I have been in three elections in the last 4 years and this is the first such complaint I have received against me. However, I believe it is important to learn from experiences such as these, and through responding to [the complainant's] complaint, I have implemented changes in my office to ensure that future similar data handling complaints are responded to promptly, even if they arrive during an exceptionally busy period. Future complaints will be flagged for urgent response and a specific member of staff has been assigned to process them.

I hope, however, that the contents of this letter and the enclosed Appendices clearly show that I was not acting in breach of paragraph 15 and/or 16 of the Code of Conduct for Members.

If you require any additional information please do let me know, and I would like to repeat my offer to come in and discuss this further in person.

Appendix 1: As per enclosure 1 of the complainant's letter to the Commissioner of 23 December 2019.

Appendix 2: The complainant's letter to the Commissioner of 23 December 2019.

Appendix 3: As per enclosure 7 of the complainant's letter to the Commissioner of 23 December 2019.

Appendix 4: Example of other correspondence sent by Dr Allin-Khan to constituents, undated.

Appendix 5a: Letter from the Information Commissioner's Office to Dr Rosena Allin-Khan, dated 10 February 2020.

We are writing to your organisation because we have received a complaint from [the complainant] that your organisation has send unwanted direct marketing to him and that you have not responded to a complaint about how you have been processing his personal data.

The ICO's role

Part of our role is to consider complaints from individuals who believe there has been an infringement of the Data Protection law.

Our view

[The complainant] wrote to you as a constituent to your UK Parliament email address. Following this correspondence he received unwanted direct marketing from an email address which appears to be linked to your campaign for the Labour Deputy Leadership,

He emailed you with a complaint about the direct marketing and how his personal data was being processed but he did not receive a response.

We have considered the information available in relation to this complaint and we are of the view that there has been an infringement of the data protection law. This is because you sent unwanted direct marketing to [the complainant] and did not respond to his query about why you thought this was appropriate.

You have also failed to respond to his complaint about how you have processed his personal data within the required timescale.

Further action required

We now expect your organisation to take the following steps to rectify this situation:

- Cease processing [the complainant's] personal data for marketing purposes and confirm to him that you have done so; and
- Respond to his complaint about the processing/sharing of his personal data.

We would also request that your Office check all the personal data you hold to ensure that the appropriate consent for direct marketing as required by the Privacy and Electronic Communication Regulations (PECR) is in place and is up to date,

You should also review your obligations under the General Data Protection Regulations (GDPR) in relation to the sharing of personal data.

Please confirm back to me that your organisation have taken the above steps within 7 calendar days.

We are not going to take any further action in relation to the complaint raised but will keep the complaint on file, this will help us over time to build up a picture of your information rights practices.

We keep a record of all the complaints raised with us about the way organisations process personal information. The Information we gather from complaints may form the basis for action in the future where appropriate.

Should you wish to discuss this case any further, or require any clarification, please do not hesitate to contact me.

Appendix 5b: Email from Dr Rosena Allin-Khan's office to the Information Commissioner's Office, dated 11 February 2020.

Thank you for your email.

We're happy to accept your conclusion but I would raise the following points.

I reject the connection between the email [the complainant] received and Rosena's Deputy Leadership Campaign. Her public email address is used for a variety of purposes – there is no connection between her constituency work and her Deputy Leadership campaign.

[The complainant] wrote to Rosena regarding his position on Brexit, and following that, Rosena kept people updated regarding Brexit and the votes taking place in Parliament. Which I believe is fair. She asked people to feed in and give their opinion before many votes that took place in parliament - thousands of people took part, [the complainant] was also invited to take part in that and he did not complain. In fact, the only complaint received throughout this process was from [the complainant].

[The complainant's] email address was not being used for “marketing” purposes. Rosena did not email him about anything else, she did not email him asking for his vote, she only ever contacted him regarding Brexit.

If an MP cannot keep a constituent updated with regards to the issue they originally emailed about then what are they supposed to do?

We will delete [the complainant's] data and will respond to [the complainant's] complaint – but we will make clear that we didn't use his data for marketing purposes.

Appendix 5c: Email from Dr Rosena Allin-Khan's office to the Information Commissioner's Office, dated 6 March 2020.

Thank you for your time on the phone recently to discuss this case – it was very useful.

[The complainant] has since written to the Parliamentary Commissioner for Standards, and we are required to respond to certain points raised.

During our call, you explained that the ICO's conclusion was that Rosena should have responded to [the complainant's] complaint, and by not doing so you considered there had been an infringement. Rosena accepts this.

You also gave some useful advice with regards to the use of her rosena@drrosena.co.uk email address, this is the email address all of our responses to constituents come from, it is the only email address which Rosena advertises. You advised that we should make that clear in our automatic reply, which we have now done.

We also discussed the point regarding direct marketing, where you said that if a constituent had contacted an MP about an issue, the MP is within their right to keep them updated with regards to that issue. You explained that the constituent, by emailing Rosena about Brexit, has 'soft opted-in' and that the ICO would not have an issue with that, had we responded in time to his original complaint.

Before we respond to the Commissioner, I wanted to clear this up. Could you reply to confirm this is an accurate reflection of the ICO's stance?

6 March 2020

5. Letter from the Commissioner to the Director of Customer Experience and Service Delivery, 18 March 2020

I would like to ask for your advice on a complaint that I have received regarding Dr Rosena Allin-Khan.

The complaint is that Dr Allin-Khan used House of Commons stationery and pre-paid envelopes to send out a letter, which allegedly was intended to confer an undue personal benefit and/or an undue advantage on a political organisation, and which therefore puts her potentially in breach of paragraph 16 of the House of Commons Code of Conduct for Members.

I enclose a copy of the relevant correspondence, including Dr Allin-Khan's response to my initiation of this inquiry, and the envelope used by Dr Allin-Khan in her mailing. I would be grateful if you would tell me how you would have advised the Member at the time, had she sought your advice about using House-provided stationery and postage pre-paid envelopes for this mailing.

I appreciate that the published guidance regarding the use of stationery cannot cover every eventuality, and it would be useful to have your observations on the factors you have taken into account in reaching a view in this instance.

It would be very helpful to have your response to this letter as soon as possible please and ideally no later than 30 March 2020 please. Due to the current health crisis, my team are currently working from home only, so I would be grateful if you could please send your response electronically to standardscommissioner@parliament.uk.

Thank you for your continued assistance with these matters.

18 March 2020

6. Letter from the Commissioner to Dr Rosena Allin-Khan MP, 18 March 2020

Thank you for your helpful letter, which we received on 9 March, in response to my initiation of the inquiry into the complaints regarding your use of the House provided stationery and your use of a constituent's personal data.

As you will recall, in my first letter to you, of 24 February 2020, I explained that I might seek the advice of the House authorities as part of my inquiry. In accordance with my usual practice regarding inquiries into the use of House provided stationery, I have today written to the Director of Customer Experience and Service Delivery, [name redacted], seeking his advice. I enclose a copy of that letter, below, for your information.

I will write to you again when I have the Director's advice and to give you an opportunity to comment. In the meantime, our correspondence remains protected by parliamentary privilege and I must ask that you continue to maintain the strict confidentiality of the inquiry.

As you may be aware, due to the current health crisis, my team are currently working from home only, so I would be grateful if any further correspondence on this matter could be sent electronically to standardscommissioner@parliament.uk.

Thank you for your continued co-operation.

18 March 2020

7. Letter from the Director of Customer Experience and Service Delivery to the Commissioner, 26 June 2020

Many thanks for submitting and my apologies for taking so long to come back to you.

If we had been asked by Dr Allin-Khan for our advice about using House-provided stationery and postage pre-paid envelopes I would have responded:

The House provides the stationery budget to assist Members in performing their parliamentary duties but the rules cannot be expected to cover every eventuality; ultimately it is incumbent on the Member to always behave with probity and integrity when using House-provided stationery and postage and they should regard themselves as personally responsible and accountable for the use of it. Although we can provide guidance on usage, if a complaint were made, it is the Commissioner for Standards who rules on individual cases, and our guidance cannot bind the Commissioner's ability to come to a different conclusion. Please see the stationery rules for more details.

In the period leading up to a General Election, it is a time of heightened sensitivity, and correspondence you send to constituents may be being read in the context of party-political messages and emerging campaign themes. I would therefore pay particular attention to the content of unsolicited letters to constituents about specific subjects, especially those where the subject may feature in a campaign message.

In this instance your letter clearly states your position on Brexit: 'I will campaign to Remain in all circumstances' and with Labour's position on Brexit being to Remain, I would suggest the timing of sending this out in the week before the House dissolved before a General Election would be unwise.

I would advise that this letter is not sent out on House of Commons stationery or using postage paid envelopes.

26 June 2020

8. Letter from the Commissioner to Dr Rosena Allin-Khan MP, 6 July 2020

I am sorry for the delay in my correspondence, which is due to the impact of coronavirus on my working arrangements.

As promised in my letter of 18 March, I am now able to share with you the response from the House's Director of Customer Experience and Service Delivery, [name redacted], which we received on 26 June.

If we had been asked by Dr Allin-Khan for our advice about using House-provided stationery and postage pre-paid envelopes I would have responded:

The House provides the stationery budget to assist Members in performing their parliamentary duties but the rules cannot be expected to cover every eventuality; ultimately it is incumbent on the Member to always behave with probity and integrity when using House-provided stationery and postage and they should regard themselves as personally responsible and accountable for the use of it. Although we can provide guidance on usage, if a complaint were made, it is the Commissioner for Standards who rules on individual cases, and our guidance cannot bind the Commissioner's ability to come to a different conclusion. Please see the stationery rules for more details.

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In this instance your letter clearly states your position on Brexit: 'I will campaign to Remain in all circumstances' and with Labour's position on Brexit being to Remain, I would suggest the timing of sending this out in the week before the House dissolved before a General Election would be unwise.

I would advise that this letter is not sent out on House of Commons stationery or using postage paid envelopes.

I would be grateful to receive any observations that you may care to make about [name redacted]'s advice by return and no later than 20 July 2020 please.

Your previous letter of 6 March to me, refers to further correspondence from the Information Commissioner's Office that you were expecting to receive. If you have now received that correspondence, please could you share it with me.

As you may be aware, due to the current health crisis, my team are currently working from home only, so I would be grateful if you could please send your response electronically to standardscommissioner@parliament.uk.

In the meantime, and as previously, our correspondence remains protected by parliamentary privilege and I must ask that you continue to maintain the strict confidentiality of the inquiry.

Thank you for your continued assistance with this matter.

6 July 2020

9. Letter from Dr Rosena Allin-Khan MP to the Commissioner, 20 July 2020

Thank you for your email. Please do not worry about the delay, I know that this is a challenging time for everyone.

I totally accept and understand [the Director]'s point that a General Election is a time of heightened sensitivity and indeed stress, especially as I have only ever experienced 'snap' elections, with no time to fully wind down my office with the months of planning that usually is possible. I put integrity at the heart of everything I do, and in this case it was no different. I genuinely wanted to close all possible cases that still required a reply or update.

Regarding [the Director]'s advice, [the Director] states that "your letter clearly states your position on Brexit: 'I will campaign to Remain in all circumstances' and with Labour's position on Brexit being to Remain, I would suggest the timing of sending this out in the week before the House dissolved before a General Election would be unwise."

I do not agree that Labour's position on Brexit was to Remain. Indeed, in the foreword to Labour's manifesto for the General Election in 2019, the then Leader of the Labour Party Jeremy Corbyn MP states: "we will get Brexit sorted in six months by giving people the final say – with a choice between a sensible leave deal or remain. We will implement whatever the British people decide." Moreover, on page 82 of the manifesto, in the section entitled: "The Final Say on Brexit", there is a commitment that "If people decide to leave, a Labour government will work constructively with the EU on vital issues of mutual interest and to the mutual benefit of the UK and EU. But we will leave the EU. Most importantly, under a Labour government, you will get the final say on Brexit."

I have attached a copy of the manifesto for your reference as there is further detail on Labour's Brexit position which, for the sake of being concise, I have not included here.

I believe it is therefore clear that, on Brexit, Labour was neither committed to Remain nor to Leave, and I was not supporting a particular party's campaigning position. Indeed, as I wrote in my initial correspondence with you on this, my statement in my letter that "I will campaign to Remain in all circumstances," was an articulation of my personal position on Brexit, which I thought would be of interest to [the complainant] given that he had written to me about in the past. It is also of note, that he disagreed with my position, and I knew this. I was writing to him as a matter of information, just as I did to everyone who had written to me on the issue, regardless of their position.

Furthermore, I believe it is very important to note that the second letter [the complainant] has referred you to was paid for, printed and delivered by the local Labour Party and was not on the Parliamentary letterhead or in a Parliamentary envelope.

In future, I would be very happy to contact [the Director] for advice on any letter that I send out on House stationery in the period immediately preceding a General Election.

Turning to the correspondence from the Information Commissioner's Office (ICO), I have recently received this correspondence and I have attached it to this email. Due to the pandemic, it took a while to get a response in writing. Please note the [name redacted] referenced is my Head of Office [name redacted]. As you will see, the ICO's Lead Case Officer [name redacted] confirms what she said on the phone, that my correspondence with [the complainant] was both sent on a lawful basis and was not in breach of General Data Protection Regulation (GDPR). [ICO Lead Case Officer] states:

"Any processing of personal data including sending emails, marketing or otherwise, needs a lawful basis to do so. For example, part of Rosina's

[sic] role as an MP is to carry out constituency casework. That means that she would have a lawful reason to process an individual's data, including sending emails to them, because it is part of her role.

The lawful basis for doing so would fall under the General Data Protection Regulation (GDPR) not PECR. In my opinion, it is likely that this would also be the case if she was contacting them about a matter previously raised by the constituent."

Thank you for giving me the opportunity to provide my observations about [the Director's] advice and the additional correspondence I have received from the ICO. If you require any additional information from me please do not hesitate to let me know.

4. Enclosures:

- a) **Labour Party 2019 Manifesto**
- b) **Email from the Information Commissioner's Office to the office of Dr Rosena Allin-Khan, 13 July 2020**

Thank you for your email.

Please see below for a further explanation of the 'soft opt-in' exemption. Direct marketing is defined in section 122(5) of the Data Protection Act 2018 (DPA18) as "the communication (by whatever means) of advertising or marketing material which is directed to particular individuals".

This covers all advertising or promotional material, including that promoting the aims or ideals of not-for-profit organisations – for example, it covers a charity or political party campaigning for support or funds. So general emails sent by Rosina may, or may not, class as marketing emails depending on the content.

The 'soft opt-in' is an exemption within the Privacy and Electronic Communication Regulations (PECR) which Controllers can use to send marketing emails to a data subject without needing specific consent. It was my original understanding that this exemption did apply to MPs. However this was confirmed later as being incorrect, it only applies in certain circumstances and not to MPs.

This does not mean that Rosina cannot contact constituents or send what may be classed as marketing emails, it just means that if she does she needs a lawful basis to do so.

Any processing of personal data including sending emails, marketing or otherwise, needs a lawful basis to do so. For example, part of Rosina's role as an MP is to carry out constituency casework. That means that she would have a lawful reason to process an individual's data, including sending emails to them, because it is part of her role.

The lawful basis for doing so would fall under the General Data Protection Regulation (GDPR) not PECR. In my opinion, it is likely that this would also be the case if she was contacting them about a matter previously raised by the constituent.

In summary, if Rosina feels it is appropriate to contact her constituents either individually or in general she can do this as long as she has a lawful basis to do so. Recipients should also be given an option to refuse further correspondence.

I hope this helps to clarify things for you. For information on lawful basis see the following link:

[link redacted]

For our guidance for Elected Representatives see the following link:

[link redacted]

Should you require any clarification, please do not hesitate to contact me

20 July 2020

10. Email from Dr Rosena Allin-Khan MP to the Commissioner, 16 September 2020

Thank you very much for advanced sight of this. I would like to make the following addition to the report please:

Use of House-provided stationery:

I was acting in good-faith when I sent those letters to local people who had contacted me regarding Brexit and I believed I was following the rules, which is why I was sure not to suggest that people should vote for me. I understand that this was a mistake and I will ensure this doesn't happen again.

I therefore of course accept your decision and will voluntarily offer to repay the cost of all the letters I sent on Brexit, please tell me what the process is.

Use of the complainant's personal data:

I believe there may have been a misunderstanding of the process that was followed here. Every MP I know has a Casework management system where their data is stored, securely and confidentially. This data was not used and has never been used for 'distribution of unsolicited party-political mailings' described.

The party-political mailing which was sent to the complainant was sent to every house in Tooting, with details taken from the electoral register. It was produced by the Labour Party, who have access to the electoral register. This is common practice in many constituencies and by all parties. The complainant's details on my Casework database were never used. 40,000 houses received that letter - with the details taken from the electoral register. His details were always held securely and never given to the Labour Party. I just wanted to clarify this point. Thank you.

16 September 2020